

<p align="center"><b>STATE OF MONTANA</b></p> <p align="center"><b>COMPLIANCE SUPPLEMENT FOR AUDITS OF</b></p> <p align="center"><b>LOCAL GOVERNMENT ENTITIES</b></p>	REF: CNTY-12
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<b>PROGRAM/SUBJECT:     Counties - Business Improvement Districts</b>	

**INFORMATION CONTACT:**                      Montana Department of Administration  
Local Government Services Bureau  
Phone Number:                      (406) 841-2909

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**COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**CREATING OR EXPANDING A BUSINESS IMPROVEMENT DISTRICT:**

**1.    Compliance Requirement:**

- The provisions for creating or expanding business improvement districts (BID) are specified in Title 7, Chapter 12, Part 11, MCA. They include the following:
  - a. A petition must be signed by owners of more than 60% of the area of the property proposed to be in the BID (MCA 7-12-1111);
  - b. The governing body shall pass a resolution of intent and publish notice as required by MCA 7-12-1112. (MCA 7-12-1112);
  - c. Owners of property in the proposed BID may protest against the extent or creation of the district to be assessed, or both. (MCA 7-12-1113);
  - d. A hearing must be held to hear and act upon protests (MCA 7-12-1114); and
  - e. A resolution must be passed creating or expanding the BID in accordance with the resolution of intent. (MCA 7-12-1115)
  - f. The period of duration of a business improvement district is for the period specified in the resolution of the governing body creating the district but shall not be for a period longer than 10 years unless the duration of the district is extended in compliance with the provisions of Title 7, Chapter 12, Part 11, for the creation of a district. (MCA 7-12-1141)

**Suggested Audit Procedures:**

- If a business improvement district (BID) was established or expanded during the audit period, review documentation on file at the county to verify that the BID was created or expanded in accordance with the statutory provisions.
- Review the resolution creating the District to determine that the duration of the District was for a period no longer than 10 years.

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## **COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

### **BUDGET AND WORK PLAN:**

#### **2. Compliance Requirement:**

- The board of county commissioners will determine a time that the board of trustees of the business improvement district must submit its budget and work plan for the fiscal year. (MCA 7-12-1132)
- **Effective October 1, 2007** – If the BID was created for the purpose of aiding in tourism, promotion and marketing within the district, and is in a county where a nonprofit convention and visitors bureau, as defined in MCA 15-65-101, is operating, the board of trustees shall consult with the nonprofit convention and visitors bureau in developing a work plan and budget for the ensuing fiscal year. (MCA 7-12-1132(2))

#### **Suggested Audit Procedure:**

- Obtain a copy of the budget and work plan that was submitted to the county and verify that it was submitted by the required time.

### **BUDGET HEARING & RESOLUTION:**

#### **3. Compliance Requirements:**

- After public notice that a work plan and budget have been submitted, the county commissioners will hold a hearing and, by resolution, levy an assessment to defray the cost of the work plan and the budget. (MCA 7-12-1132)
- The assessment shall be levied on all of the property in the district using one of the following methods of allocation described in MCA 7-12-1133:
  - a. each lot or parcel of land within the district may be assessed for that part of the whole cost which its area bears to the area of the entire district, exclusive of streets, avenues, alleys and public places;
  - b. if the governing body determines that the benefits derived by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel within the district without regard to the area of the lot or parcel;
  - c. **Effective October 1, 2007** - if the governing body determines that benefits derived by each lot or parcel are proportional, the governing body may use a standard criteria, such as individual occupancy or daily use, and make the assessment on a flat-fee basis based on the criteria;
  - d. each lot or parcel of land, including the improvements thereon, may be assessed for that part of the whole cost of the district which its taxable valuation bears to the total taxable valuation of the property of the district;
  - e. each building may be assessed for that part of the whole cost of the district that the occupied or income-producing area of the building above the first floor bears to the area of the entire district; or

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## **COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

### **BUDGET HEARING & RESOLUTION - continued:**

#### **3. Compliance Requirements - continued:**

- f. **Effective October 1, 2007** - if the governing body determines that benefits derived by each lot or parcel are disproportional, the governing body may use classification criteria, such as location within the district, economic impact, or any other measurable criteria, in conjunction with methods of assessing fees outlined in a. through e. Each classification must have its own rate. There may not be more than six classifications upon which a charge is imposed.
- g. by using any combination of the assessment options provided in a. through f. above.

#### **Suggested Audit Procedure:**

- Obtain a copy of the resolution levying the assessment on the property in the business improvement district. Review the method of assessment to determine if the county used one or more of the methods specified above, or a combination of the assessment options.

### **LIABILITY INSURANCE REQUIRED:**

#### **4. Compliance Requirement:**

- The governing body may not approve the budget or the work plan unless the budget and the work plan provide for liability insurance coverage insuring the district, the board of trustees, and the county against legal liability for personal injury and property damage in an amount determined sufficient for that purpose by the governing body. (MCA 7-12-1143)

#### **Suggested Audit Procedure:**

- Review insurance documents to determine if the business improvement district has liability insurance as provided above.

### **DEBT OF DISTRICT SOLELY THE RESPONSIBILITY OF DISTRICT:**

#### **5. Compliance Requirement:**

- Obligations or debt of the business improvement district are not obligations or debt of the county, and in no event is a debt or obligation of a district payable out of any funds or properties of the county. Debts and obligations of a district are payable solely from the funds and properties of the district. (MCA 7-12-1144)

#### **Suggested Audit Procedure:**

- Test expenditures of the county and determine that none were in payment of a debt or obligation of the business improvement district.